

**ASSEMBLY, No. 5551**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED MAY 5, 2021

**Sponsored by:**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**SYNOPSIS**

Requires counties and municipalities to conduct public hearings and obtain DEP approval prior to sale, lease, lease renewal, or exchange of certain public trust lands.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the sale, lease, lease renewal, or exchange of  
2 certain public trust lands by counties and municipalities, and  
3 supplementing P.L.1971, c.199 (C.40A:12-1 et seq.).  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 1. a. Notwithstanding the provisions of any law to the  
9 contrary, no county or municipality shall sell, lease or renew a lease  
10 for a term of 3 years or more, or exchange any real property or  
11 improvement that is located on tidally-flowed waters or adjacent  
12 shorelines, or that is utilized for public access to any tidally flowed  
13 waters or adjacent shorelines, unless the county or municipality  
14 first:

15 (1) conducts two public hearings on the proposed sale, lease,  
16 lease renewal, or exchange at least 14 days apart and at least 90  
17 days in advance of the date of the proposed sale, lease, lease  
18 renewal, or exchange. The county or municipality, as applicable,  
19 shall publish a notice of the public hearings in at least two  
20 newspapers circulating in the municipality in which the real  
21 property or capital improvement proposed to be sold, leased, or  
22 exchanged is located at least 60 days prior to the public hearings.  
23 The county or municipality, as applicable, also shall provide a copy  
24 of the notice to the Department of Environmental Protection, and  
25 the department shall publish the notice on its Internet website. The  
26 public hearings shall be held in the municipality where the real  
27 property or capital improvement proposed to be sold, leased, or  
28 exchanged is located or, if that is not practicable, in a municipality  
29 as close thereto as can reasonably be arranged. At the hearings, the  
30 county or municipality, as applicable, shall explain the proposed  
31 sale, lease, lease renewal, or exchange, and accept testimony from  
32 members of the public on the issue of public access to the tidally  
33 flowed waters or adjacent shorelines which may be affected as a  
34 result of the proposed sale, lease, lease renewal, or exchange. The  
35 county or municipality conducting the public hearings shall  
36 transcribe the public hearings and provide a copy of the transcripts  
37 to the Department of Environmental Protection. A county or  
38 municipality may consolidate the public hearings required pursuant  
39 to this section with any other public hearing conducted pursuant to  
40 law, provided the public hearings meet the requirements of this  
41 paragraph; and

42 (2) obtains the approval of the Department of Environmental  
43 Protection. An application for approval pursuant to this paragraph  
44 shall be made to the department after the public hearings required  
45 pursuant to paragraph (1) of this subsection, in a form and manner  
46 as determined by the department.

47 b. The department shall approve a sale, lease, or exchange, or  
48 lease renewal, pursuant to this section only if the department finds  
49 that the sale, lease, lease renewal, or exchange does not affect the

1 public's right of access to the tidally flowed waters or adjacent  
2 shorelines and is otherwise consistent with the public trust doctrine  
3 and the provisions of P.L.2019, c.81 (C.13:1D-150 et seq.). The  
4 department may require, as a condition of an approval granted  
5 pursuant to this section, that the county or municipality, as  
6 applicable, or the prospective owner or lessee of the real property or  
7 improvement undertake additional measures, as the department  
8 deems appropriate, to ensure that the public has sufficient access to  
9 the tidally flowed waters and adjacent shorelines.

10 c. For the purposes of this section, "public access" includes  
11 visual and physical access to, and use of, tidal waters and adjacent  
12 shorelines, sufficient perpendicular access from upland areas to  
13 tidal waters and adjacent shorelines, and the necessary support  
14 amenities to facilitate public access for all, including, but not  
15 limited to, public access points, public facilities that support access,  
16 parking, boat ramps, and marinas.

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18 2. This act shall take effect immediately.  
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#### 21 STATEMENT

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23 This bill would prohibit the sale, lease or renewal of a lease for a  
24 term of 3 years or more, or exchange of any real property or  
25 improvement that is located on tidally-flowed waters or adjacent  
26 shorelines, or that is utilized for public access to any tidally flowed  
27 waters or adjacent shorelines, by a county or municipality unless  
28 the county or municipality first conducts two public hearings on the  
29 proposed sale, lease, lease renewal, or exchange at least 14 days  
30 apart and at least 90 days in advance of the date of the proposed  
31 sale, lease, lease renewal, or exchange. The bill would also require  
32 that the county or municipality, as applicable, obtain the approval of  
33 the Department of Environmental Protection for the sale, lease,  
34 lease renewal, or exchange. An application for approval would be  
35 made to the department after the required public hearings, in a form  
36 and manner as determined by the department.

37 The department would be required to approve the sale, lease,  
38 lease renewal, or exchange only if the department finds that the  
39 sale, lease, lease renewal, or exchange does not affect the public's  
40 right of access to the tidally flowed waters or adjacent shorelines  
41 and is otherwise consistent with the public trust doctrine and the  
42 provisions of P.L.2019, c.81 (C.13:1D-150 et seq.). Under the bill,  
43 the department may require, as a condition of an approval granted  
44 pursuant to this section, that the county or municipality, as  
45 applicable, or the prospective owner or lessee of the real property or  
46 improvement undertake additional measures, as the department  
47 deems appropriate, to ensure that the public has sufficient access to  
48 the tidally flowed waters and adjacent shorelines.